

Executive Summary – Enforcement Matter – Case No. 41693

City of Lawn

RN101406916

Docket No. 2011-0798-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

Located at 150 Main Street, Lawn, Taylor County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 16, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,732

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,732

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Docket No. 2011-0798-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 24, 2011

Date(s) of NOE(s): February 24, 2011

Violation Information

1. Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on the running annual average [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

2. Failed to comply with the MCL of 0.060 mg/L for haloacetic acids ("HAA5"), based on the running annual average [30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 365 days, return to compliance with the running annual average MCL for TTHM and HAA5; and
- b. Within 380 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Stephen Thompson, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2558; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

Executive Summary – Enforcement Matter – Case No. 41693

City of Lawn

RN101406916

Docket No. 2011-0798-PWS-E

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Veronica Burleson, Mayor, City of Lawn, P.O. Box 246,
Lawn, Texas 79530-0246

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	23-May-2011	Screening	23-May-2011	EPA Due	30-Jun-2010
	PCW	23-May-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Lawn		
Reg. Ent. Ref. No.	RN101406916		
Facility/Site Region	3-Abilene	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41693	No. of Violations	2
Docket No.	2011-0798-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Kelly Wisian
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$750

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **106.0%** Enhancement **Subtotals 2, 3, & 7** \$795

Notes: Enhancement for four NOVs with same or similar violations, eight dissimilar NOVs, one agreed final enforcement order containing a denial of liability, and two agreed final enforcement orders without a denial of liability.

Culpability **Yes** **25.0%** Enhancement **Subtotal 4** \$187

Notes: The Respondent was issued an alert letter for total trihalomethanes ("TTHM") on November 16, 2009 and February 4, 2010 for haloacetic acids ("HAA5").

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit **0.0%** Enhancement* **Subtotal 6** \$0

Total EB Amounts \$687
Approx. Cost of Compliance \$5,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$1,732

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$1,732

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$1,732

DEFERRAL **0.0%** Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral due is recommended for Findings Orders.

PAYABLE PENALTY \$1,732

Screening Date 23-May-2011

Docket No. 2011-0798-PWS-E

PCW

Respondent City of Lawn

Policy Revision 2 (September 2002)

Case ID No. 41693

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101406916

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	8	16%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	2	50%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 106%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for four NOVs with same or similar violations, eight dissimilar NOVs, one agreed final enforcement order containing a denial of liability, and two agreed final enforcement orders without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 106%

Screening Date 23-May-2011

Docket No. 2011-0798-PWS-E

PCW

Respondent City of Lawn

Policy Revision 2 (September 2002)

Case ID No. 41693

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101406916

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wislan

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to comply with the maximum contaminant level of 0.080 milligrams per liter ("mg/L") for TTHM based on the running annual average. Specifically, at the time of the record review, it was documented that the running annual average concentration for TTHM was 0.082 mg/L for the fourth quarter of 2009, 0.165 mg/L for the first quarter of 2010, and 0.210 mg/L for the third quarter of 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Customers of the Facility have been exposed to significant amounts of pollutants that do not exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2

599 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Violation Base Penalty \$500

Two annual events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$687

Violation Final Penalty Total \$1,155

This violation Final Assessed Penalty (adjusted for limits) \$1,155

Economic Benefit Worksheet

Respondent City of Lawn
Case ID No. 41693
Reg. Ent. Reference No. RN101406916
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	1-Oct-2009	30-Jun-2012	2.75	\$687	n/a	\$687

Notes for DELAYED costs

The delayed costs include the amount for the Respondent to operate the system with an alternative form of disinfection, calculated from the first day of non-compliance, to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$687

Screening Date 23-May-2011

Docket No. 2011-0798-PWS-E

PCW

Respondent City of Lawn

Policy Revision 2 (September 2002)

Case ID No. 41693

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101406916

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.113(f)(5) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to comply with the MCL of 0.060 mg/L for HAA5, based on the running annual average. Specifically, the running annual average concentration for HAA5 was 0.067 mg/L for the third quarter of 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Customers of the Facility have been exposed to significant amounts of pollutants that do not exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1

234 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$250

One annual event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$578

This violation Final Assessed Penalty (adjusted for limits) \$578

Economic Benefit Worksheet

Respondent City of Lawn
Case ID No. 41693
Reg. Ent. Reference No. RN101406916
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The economic benefit for this violation is included in violation no. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN600738868 City of Lawn Classification: Rating:
Regulated Entity: RN101406916 CITY OF LAWN Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
WATER LICENSING LICENSE 2210005
Location: 150 MAIN STREET, LAWN, TAYLOR COUNTY, TEXAS
TCEQ Region: REGION 03 - ABILENE
Date Compliance History Prepared: May 23, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 23, 2006 to May 23, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Ms. Kelly Wisian Phone: (512) 239-2570

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 05/28/2006 ADMINORDER 2004-2098-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(A)

Description: FAILURE TO PROVIDE A B-SURFACE WATER OPERATOR.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)

Rqmt Prov: Docket 2004-2098-PWS-E ORDER

Description: Failure to calibrate flow measuring devices and rate-of-flow controllers at least once every twelve months.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: FAILURE TO REMOVE AND CLEAN OUT SLUDGE PONDS.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(C)

Description: FAILURE TO CONDUCT ANNUAL INSPECTIONS OF ALL WATER STORAGE TANKS.

Effective Date: 11/03/2006

ADMINORDER 2006-0164-PWS-E

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(1)

Description: Failure to provide 35 psi throughout the distribution.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)

Rqmt Prov: Docket 2006-0164-PWS-E ORDER

Description: Failure to maintain the residual disinfectant concentration throughout the distribution system at a minimum of 0.5 mg/L total chlorine.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)

Description: Failure to install backflow prevention assemblies or air gaps at all establishments where a potential contamination hazard exists.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)

Description: Failure to maintain a water storage tank thoroughly tight against leakage. Specifically, a 0.096 MG standpipe was leaking.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to maintain good maintenance and housekeeping practices to ensure the good working condition and operating appearances of the system's facilities and equipment. Specifically, the City failed to clean out the sludge ponds and mow around the 0.096 MG standpipe.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(A)

Description: Failure to employ at least one operator who holds a class "B" or higher surface water license. Specifically, the City failed to employ a certified licensed class "B" surface water operator and a class "C" operator during operating hours.

Effective Date: 02/08/2009

ADMINORDER 2008-0988-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)

30 TAC Chapter 290, SubChapter H 290.274(a)

30 TAC Chapter 290, SubChapter H 290.274(c)

Description: failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	06/29/2006	(484658)
2	09/26/2006	(512040)
3	04/20/2007	(557080)
4	06/13/2007	(564213)
5	06/14/2007	(564275)
6	06/14/2007	(564277)
7	06/14/2007	(564282)
8	06/14/2007	(564291)
9	06/14/2007	(564299)
10	06/14/2007	(564306)
11	06/14/2007	(564314)
12	06/14/2007	(564321)
13	06/14/2007	(564327)
14	06/14/2007	(564336)
15	06/14/2007	(564345)
16	06/15/2007	(564395)
17	06/20/2007	(564802)
18	02/27/2008	(636263)
19	05/09/2008	(655025)
20	11/20/2008	(706735)
21	04/29/2009	(743438)
22	08/18/2009	(748657)
23	03/01/2011	(896103)
24	03/11/2011	(905661)
25	02/23/2011	(905664)
26	04/08/2011	(906207)
27	02/23/2011	(906238)
28	12/20/2010	(906259)
29	05/16/2011	(913999)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 06/29/2006

(484658)CN600738868

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)

Description: FAILURE TO ELIMINATE CROSS CONNECTION ON FILTER NO. 4

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(5)(F)

Description: Failure to provide alarms to summon operators during periods when the surface water treatment plant is not staffed.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(m)

Description: FAILURE TO PROVIDE LOCKING DEVICE ON RAW WATER INTAKE BUILDING

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.41(e)(2)(C)		
Description:	Failed to provide legible signs at the raw water intake location which states that the area is restricted and all recreational activities and trespassing are prohibited.		

Self Report?	NO	Classification:	Major
Citation:	30 TAC Chapter 290, SubChapter D 290.42(f)(2)(G)		
Description:	FAILURE TO PROVIDE MINIMUM DISINFECTION LEVELS IN DISTRIBUTION SYSTEM		

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iii)		
Description:	FAILURE TO CALIBRATE ONLINE NTU METERS EVERY 90 DAYS		

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iv)		
Description:	Failed to conduct a weekly calibration check of the on-line turbidimeter.		

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(ii)		
Description:	Failed to conduct a calibration check of the benchtop turbidimeter using secondary standards each time a series of samples is tested.		

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(i)		
Description:	FAILURE TO CONDUCT 90 CALIBRATIONS ON BENCH TOP NTU METER (2100P)		

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(ii)		
Description:	Failed to calibrate disinfectant residual analyzers once every 90 days using chlorine solutions of known concentration.		

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(1)		
Description:	Failure to provide the system's storage tanks with a gooseneck vents or roof ventilators.		

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(4)		
Description:	FAILURE TO COMPLETE SWMORS WITH CORRECT DISINFECTION DATA.		

Date:	09/01/2006	(564306)	CN600738868
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(ii) 5A THC Chapter 341, SubChapter A 341.0315(c)		
Description:	Exceeded the turbidity level of combined filter effluent of the public water system during July 2006 - 10.3% above 0.3 NTU.		

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.110(b)(1)(A) 30 TAC Chapter 290, SubChapter F 290.110(f)(4) 5A THC Chapter 341, SubChapter A 341.0315(c)		
Description:	Failure to meet the requirements of the disinfection protocol used by the public water system for a period longer than four consecutive hours for one day in July 2006.		

Date:	12/22/2006	(564314)	CN600738868
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(ii) 5A THC Chapter 341, SubChapter A 341.0315(c)		
Description:	Exceeded the turbidity level of combined filter effluent of the public water system during November 2006 - 6.5% above 0.3 NTU.		

Date: 01/30/2007 (564321) CN600738868
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(ii)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: Exceeded the turbidity level of combined filter effluent of the public water system during December 2006 - 33.3% above 0.3 NTU.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(i)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: Exceeded the turbidity level of combined filter effluent of the public water system during December 2006 - 6 days above 1.0 NTU.

Date: 04/06/2007 (564336) CN600738868
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(1)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(4)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: Failure to meet the requirements of the disinfection protocol used by the public water system for a period longer than four consecutive hours for 2 days during February 2007.

Date: 05/07/2007 (564345) CN600738868
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(1)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(4)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: Failure to meet the requirements of the disinfection protocol used by the public water system for a period longer than four consecutive hours for seven days during March 2007.

Date: 06/14/2007 (564327) CN600738868
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(1)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(4)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: Failure to meet the requirements of the disinfection protocol used by the public water system for a period longer than four consecutive hours for nine days in January 2007.

Date: 11/21/2008 (706735) CN600738868
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
Description: Failure to develop and maintain an up-to-date chemical and microbiological monitoring plan.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
Description: Failure to have a plant operations manual.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(6)
Description: Failure to maintain the motor for the north clarifier at the surface water treatment plant.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(ii)
Description: Failure to calibrate disinfectant residual analyzers once every 90 days using chlorine solutions of known concentrations.

Date: 02/23/2010 (905664) CN600738868
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2009.

Date: 04/28/2010 (906207) CN600738868
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2010.

Date: 12/20/2010 (906259) CN600738868
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2010.

Date: 02/23/2011 (906238) CN600738868
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
Description: Violated the maximum contaminant level for haloacetic acids during the third quarter of 2010.

- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF LAWN
RN101406916

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2011-0798-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Lawn ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 150 Main Street in Lawn, Taylor County, Texas (the "Facility") that has approximately 309 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on February 24, 2011, TCEQ staff documented that the Respondent did not comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on the running annual average. Specifically, at the time of the record review, it was documented that the running annual average concentration for TTHM was 0.082 mg/L for the fourth quarter of 2009, 0.165 mg/L for the first quarter of 2010, and 0.210 mg/L for the third quarter of 2010.
3. During a record review on February 24, 2011, TCEQ staff documented that the Respondent did not comply with the MCL of 0.060 mg/L for haloacetic acids ("HAA5"), based on the running annual average. Specifically, the running annual average concentration for HAA5 was 0.067 mg/L for the third quarter of 2010.
4. The Respondent received notice of the violations on February 28, 2011.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the maximum contaminant level of 0.080 mg/L for TTHM based on the running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the MCL of 0.060 mg/L for HAA5, based on the running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of One Thousand Seven Hundred Thirty-Two Dollars (\$1,732) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the One Thousand Seven Hundred Thirty-Two Dollar (\$1,732) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of One Thousand Seven Hundred Thirty-Two Dollars (\$1,732) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Lawn, Docket No. 2011-0798-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM and HAA5, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
 - b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

DBP Compliance Coordinator
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission,

including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

R. D. Hyle
For the Executive Director

9/27/11
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Lawn. I am authorized to agree to the attached Agreed Order on behalf of the City of Lawn, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Lawn waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Veronica Berleson
Signature

8/2/11
Date

Veronica Berleson Mayer
Name (Printed or typed)
Authorized Representative of
City of Lawn

Mayer
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.